IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

Crl.MC.No. 603 of 2007()

CMP.3703/2006 of ADDL.CHIEF JUDICIAL MAGISTRATE COURT, THALASSERY

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PETITIONER: PETITIONER/COMPLAINANT

P.V.SREEKUMAR,
S/O.V.C.SANKARAN NAIR.,
"ASHIRVAD", KUTHUPARAMBA AMSOM,
PARAL.P.O., KUTHUPARAMBA.

BY ADV. SRI.K.SHRIHARI RAO
SMT.N.SHOBHA
SRI.O.G.PREMARAJAN

RESPONDENTS: RESPONDENTS/ACCUSED

1. STATE OF KERALA.,
REP.BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. DR.K.M.SUKUMARAN,
ASSISTANT SURGEON,
GOVERNMENT HOSPITAL, KUTHUPARAMBA,
KANNUR DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.603 of 2007

Dated this the 22nd day of March, 2007

ORDER

The petitioner had filed a complaint before the learned Additional Chief Judicial Magistrate, Thalassery complaining about an offence under Section 138 of the N.I Act committed by the 2nd respondent/accused. The said complaint was returned to the petitioner/complainant by the learned Magistrate under Section 201 Cr.P.C by the impugned order dated 20.02.2007. Such return was made on the ground that no part of the cause of action has taken place within the jurisdiction of the court.

2. The petitioner complains that the drawee bank is situated within the territorial jurisdiction of the Additional Chief Judicial Magistrate and, in these circumstances, the return under Section 201 Cr.P.C is totally unjustified.

3. Remarks of the learned Magistrate were called for. The learned Magistrate in the remarks submitted that overlooking the fact that the bank, which has returned the cheque dishonoured and unpaid, is situated within the jurisdiction of the learned Additional Chief Judicial Magistrate, the order under Section 201 Cr.P.C was passed. The mistake is realised and the report shows that the court is satisfied now that it has jurisdiction to deal with the matter.

4. I am, in these circumstances, satisfied that the impugned order passed under Section 201 Cr.P.C can be set aside and the petitioner can be permitted to re-present the complaint returned to him, which he has produced before this Court, along with a memo, before the learned Additional Chief Judicial Magistrate, Thalassery, who shall continue to deal with and dispose of the same in accordance with law.

5. In the result, this Crl.M.C is allowed. The impugned order dated 20.02.2007 is set aside. The Registry shall return the complaint to the petitioner forthwith. The petitioner shall present the same before the learned Additional Chief Judicial Magistrate, Thalassery, within a period of 30 days from this date.

6. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-